

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE INSULIN PRICING LITIGATION

Case No. 2:17-cv-00699 (BRM) (RLS)

ORDER

THIS MATTER is before the Court on two motions: (1) Plaintiffs’ Motion for Class Certification pursuant to Federal Rule of Civil Procedure 23 (ECF Nos. 574, 575), to which Defendants Novo Nordisk, Inc. (“Novo Nordisk”), Sanofi-Aventis U.S. LCC (“Sanofi”), and Eli Lilly and Company (“Eli Lilly”) (collectively, “Defendants”) filed an opposition (ECF No. 576), Plaintiffs filed a reply (ECF No. 577), Defendants filed a sur-reply (ECF No. 587), Plaintiffs filed a response to Defendants’ sur-reply as part of an omnibus filing (ECF No. 597), and Plaintiffs later filed a supplemental brief in further support of their Motion (ECF No. 707);¹ and (2) Defendants’ Motion to Exclude the Expert Testimony of Plaintiffs’ Expert Dr. Meredith Rosenthal (ECF Nos. 593, 594), to which Plaintiffs filed an opposition (ECF No. 595), Defendants filed a reply (ECF No. 596), and Plaintiffs filed a sur-reply as part of an omnibus filing. (ECF No. 597). Having reviewed the parties’ voluminous submissions filed in connection with the two motions, and having held oral argument on November 28, 2023, for the reasons set forth in the accompanying Opinion and for good cause having been shown,

IT IS on this 24th day of January 2024,

¹ In further support of their Motion for Class Certification, Plaintiffs also filed a letter with a notice of supplemental authority—*In re Valsartan, Losartan, & Irbesartan Prods. Liab. Litig.*, Civ. A. No. 19-2875, 2023 WL 1818922 (D.N.J. Feb. 8, 2023) (ECF No. 606), to which Defendants filed a letter in response (ECF No. 607), and Plaintiffs filed a letter in reply to Defendant’s response (ECF No. 609). Defendants also separately filed a letter with an additional notice of supplemental authority—*In re Niaspan Antitrust Litig.*, 67 F.4th 118 (3d Cir. 2023). (ECF No. 635.)

ORDERED that Defendants' Motion to Exclude the Expert Testimony of Dr. Meredith Rosenthal (ECF No. 593) is **GRANTED IN PART and DENIED IN PART** as follows: Defendants' Motion to Exclude Dr. Rosenthal's testimony is **GRANTED** to the extent Plaintiffs intend to rely on Dr. Rosenthal's testimony to establish whether Defendants' conduct in setting list prices for their analog insulin products was unfair or unconscionable under the applicable state law, but otherwise is **DENIED**; and it is further

ORDERED that Plaintiffs' Motion for Class Certification (ECF No. 574) is **DENIED**; and it is further

ORDERED that Plaintiffs shall have forty-five (45) days from the date of this Order to file a Fourth Amended Complaint with new proposed classes; and it is further

ORDERED that the accompanying Opinion shall be filed **UNDER SEAL**; and it is further

ORDERED that counsel shall submit, via email to chambers_of_judge_brian_martinotti@njd.uscourts.gov by February 14, 2024, a joint proposed redacted version of the Opinion for the Court's review and publication to the docket.

/s/ **Brian R. Martinotti**

BRIAN R. MARTINOTTI

UNITED STATES DISTRICT JUDGE